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Date: January 26, 2006	Phone Number	Fax Number
To: Board of Patent Appeals		(571) 273-8300
From: Kevin J. Zilka		

Docket No.: NAI1P275/01.014.01

App. No: 09/921,543

Total Number of Pages Being Transmitted, Including Cover Sheet: 35

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January 26, 2006

JAN 26 2006

Practitioner's Docket No. NAI1P275/01.014.01

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: C. Vigue et al.

Application No.: 09/921,543

Group No.: 2131

Filed: 08/02/2001

Examiner: Henning, M.

For: SYSTEM AND METHOD FOR SECURE AND VERIFIED SHARING OF RESOURCES IN A  
PEER-TO-PEER NETWORK ENVIRONMENT

Mail Stop Appeal Briefs - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF  
(PATENT APPLICATION-37 C.F.R. § 41.37)

1. This brief is in furtherance of the Notice of Appeal filed September 13, 2005, a substitute for the Appeal Brief filed October 13, 2005, and in response to the Notification of Non-Compliant Appeal Brief mailed on January 19, 2006 (see attached).

## 2. STATUS OF APPLICANT

This application is on behalf of other than a small entity.

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

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Erica L. Farlow

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\* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Transmittal of Appeal Brief--page 1 of 2

JAN 26 2006

**3. FEE FOR FILING APPEAL BRIEF**

Pursuant to 37 C.F.R. §1.17(c), the fee for filing the Appeal Brief has already been paid. However, the Commissioner is authorized to charge any fees that may be due to deposit account 50-1351 (NAIIP275).

**4. EXTENSION OF TERM**

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**5. TOTAL FEE DUE**

The total fee due is:

Appeal brief fee	\$0.00 (previously paid on October 13, 2005)
<b>Total Fee Due</b>	<b>\$0.00</b>

**6. FEE PAYMENT**

Applicant believes that only the above fees are due in connection with the filing of this paper because the appeal brief fee was paid with a previous omission. However, the Commissioner is authorized to charge any additional fees that may be due (e.g. for any reason including, but not limited to fee changes, etc.) to deposit account 50-1351 (Order No. NAIIP275).

A duplicate of this transmittal is attached.

**7. FEE DEFICIENCY**

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. NAIIP275).

Reg. No.: 41,429  
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\_\_\_\_\_  
Signature of Practitioner  
Keyin J. Zilka  
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Transmittal of Appeal Brief--page 2 of 2

A large, bold, black stamp with the word "COPY" in a sans-serif font. To the left of the word is a small icon of a document with a folded corner.

Practitioner's Docket No. NAIIP275/01.014.01

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: C. Vigue et al.

Application No.: 09/921,543

Group No.: 2131

Filed: 08/02/2001

Examiner: Henning, M.

For: SYSTEM AND METHOD FOR SECURE AND VERIFIED SHARING OF RESOURCES IN A  
PEER-TO-PEER NETWORK ENVIRONMENT

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P.O. Box 1450

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TRANSMITTAL OF APPEAL BRIEF  
(PATENT APPLICATION--37 C.F.R. § 41.37)

1. This brief is in furtherance of the Notice of Appeal filed September 13, 2005, a substitute for the Appeal Brief filed October 13, 2005, and in response to the Notification of Non-Compliant Appeal Brief mailed on January 19, 2006 (see attached).
2. STATUS OF APPLICANT

This application is on behalf of other than a small entity.

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

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## TRANSMISSION

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Date:

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Erica L. Farlow

(type or print name of person certifying)

\* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Transmittal of Appeal Brief--page 1 of 2

**3. FEE FOR FILING APPEAL BRIEF**

Pursuant to 37 C.F.R. §1.17(c), the fee for filing the Appeal Brief has already been paid. However, the Commissioner is authorized to charge any fees that may be due to deposit account 50-1351 (NAIIP275).

**4. EXTENSION OF TERM**

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**5. TOTAL FEE DUE**

The total fee due is:

Appeal brief fee	\$0.00 (previously paid on October 13, 2005)
<b>Total Fee Due</b>	<b>\$0.00</b>

**6. FEE PAYMENT**

Applicant believes that only the above fees are due in connection with the filing of this paper because the appeal brief fee was paid with a previous omission. However, the Commissioner is authorized to charge any additional fees that may be due (e.g. for any reason including, but not limited to fee changes, etc.) to deposit account 50-1351 (Order No. NAIIP275).

A duplicate of this transmittal is attached.

**7. FEE DEFICIENCY**

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. NAIIP275).

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Transmittal of Appeal Brief--page 2 of 2

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Vigue et al.

Application No. 09/921,543

Filed: August 2, 2001

For: SYSTEM AND METHOD FOR SECURE  
AND VERIFIED SHARING OF RESOURCES  
IN A PEER-TO-PEER NETWORK  
ENVIRONMENT

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)  
) Art Unit: 2131  
)  
) Examiner: Henning, Matthew T.  
)  
) Date: January 26, 2006  
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)  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ATTENTION: Board of Patent Appeals and Interferences**

**SUBSTITUTE APPEAL BRIEF (37 C.F.R. § 41.37)**

This brief is in furtherance of the Notice of Appeal filed September 13, 2005, a substitute for the Appeal Brief filed October 13, 2005, and in response to the Notification of Non-Compliant Appeal Brief mailed on January 19, 2006 (see attached). While appellant disagrees with the Examiner as to whether the alleged deficiencies exist in the original Appeal Brief, a Substitute Appeal Brief with appropriate edits is nevertheless submitted to expedite prosecution.

This brief is in furtherance of the Notice of Appeal, filed in this case on September 13, 2005.

The fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)(i)):

- I REAL PARTY IN INTEREST
- II RELATED APPEALS AND INTERFERENCES
- III STATUS OF CLAIMS
- IV STATUS OF AMENDMENTS
- V SUMMARY OF CLAIMED SUBJECT MATTER
- VI GROUNDS OF REJECTION PRESENTED FOR REVIEW
- VII ARGUMENTS
- VIII APPENDIX OF CLAIMS INVOLVED IN THE APPEAL
- IX APPENDIX LISTING ANY EVIDENCE RELIED ON BY THE APPELLANT  
IN THE APPEAL
- X RELATED PROCEEDING APPENDIX

The final page of this brief bears the practitioner's signature.

**I REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))**

The real party in interest in this appeal is McAfee, Inc.



**II RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c) (1)(ii))**

With respect to other prior or pending appeals, interferences, or related judicial proceedings that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no other such appeals, interferences, or related judicial proceedings.

A Related Proceedings Appendix is appended hereto.

**III STATUS OF CLAIMS (37 C.F.R. § 41.37(c) (1)(iii))**

**A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

Claims in the application are: 1-11 and 13-25

**B. STATUS OF ALL THE CLAIMS IN APPLICATION**

1. Claims withdrawn from consideration: None
2. Claims pending: 1-11 and 13-25
3. Claims allowed: None
4. Claims rejected: 1-11 and 13-25
5. Claims cancelled: 12

**C. CLAIMS ON APPEAL**

The claims on appeal are: 1-11 and 13-25

See additional status information in the Appendix of Claims.

**IV STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))**

As to the status of any amendment filed subsequent to final rejection, an amendment was filed on August 03, 2005. Such amendment was entered.

**V SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))**

With respect to a summary of Claims 1 and 15, as shown in Figure 6, a method and computer program product are provided for securely sharing resources over a peer-to-peer network. In use, a single request is broadcasted to a plurality of peers by a requesting peer for a resource over the peer-to-peer network where the request contains an identification of the resource and the resource identification contains a resource version identifier (e.g. item 202 of Figure 6). A response from a responding peer is then received on the peer-to-peer network indicating that the responding peer has the requested resource (e.g. item 204/206 of Figure 6). The requested resource is retrieved from the responding peer (e.g. item 208 of Figure 6). In addition, the retrieved resource is verified by ensuring the retrieved resource contains the version identifier embedded therein. Note page 15, line 12-page 16, line 3; page 17, lines 12-22; and page 22, lines 20-21, for example.

With respect to a summary of Claim 8, the above summary is incorporated, at least in part, by reference. Further, as shown in Figure 8, a product updating service for automatic and secure updating of a product installed at a node of a peer-to-peer network is provided. In use, a catalog containing a current listing of resources is automatically downloaded for the product at a predetermined time, where each resource is identified by a resource version identifier (e.g. item 242 of Figure 8). The listing of resources in the catalog is then compared with resources installed at the node to determine which resources are to be requested over the peer-to-peer network (e.g. item 244 of Figure 8). Each resource to be requested is requested in a separate transaction over the peer-to-peer network, where the request is made via a single broadcasted request to a plurality of peers. Each resource to be requested is retrieved in the peer-to-peer network and the Internet (e.g. item 246 of Figure 8) and is verified by ensuring the retrieved resource contains the version identifier embedded therein (e.g. item 248 of Figure 8). Note page 21, line 21-page 24, line 6, for example.

**VI GROUNDS OF REJECTION PRESENTED FOR REVIEW**  
**(37 C.F.R. § 41.37(c)(1)(vi))**

Following, under each issue listed, is a concise statement setting forth the corresponding ground of rejection.

**Issue #1:** The Examiner has stated that Provisional Application Number 60/282,333 filed 4/9/2001 upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 2-3, 9-10, 13-14 and 16-17.

**Issue #2:** The Examiner has rejected Claims 13-14 under 35 U.S.C. 112, second paragraph as being indefinite.

**Issue #3:** The Examiner has rejected Claims 1, 4-7, 15 and 18-25 under 35 U.S.C. 103(a) as being unpatentable over Peng, U.S. Patent No. 6,317,754, in view of Delaney, U.S. Patent No. 6,374,289.

**Issue #4:** The Examiner has rejected Claims 2 and 16 under 35 U.S.C. 103(a) as being unpatentable over Peng, U.S. Patent No. 6,317,754, in view of Delaney, U.S. Patent No. 6,374,289, in further view of Shostack, U.S. Patent No. 6,298,445.

**Issue #5:** The Examiner has rejected Claims 3 and 17 under 35 U.S.C. 103(a) as being unpatentable over Peng, U.S. Patent No. 6,317,754, in view of Delaney, U.S. Patent No. 6,374,289, in further view of Shostack, U.S. Patent No. 6,298,445, in further view of Verisign (Verisign Gets US Approval for 128-bit Key Certificates Export).

**Issue #6:** The Examiner has rejected Claims 8 and 11 under 35 U.S.C. 103(a) as being unpatentable over Radatti, U.S. Patent Application Publication 2002/0170052, in view of Delaney, U.S. Patent No. 6,374,289.

**Issue #7:** The Examiner has rejected Claims 9 and 13 under 35 U.S.C. 103(a) as being unpatentable over Radatti, U.S. Patent Application Publication 2002/0170052, in view

of Delaney, U.S. Patent No. 6,374,289, in further view of Shostack, U.S. Patent No. 6,298,445.

Issue #8: The Examiner has rejected Claims 10 and 14 under 35 U.S.C. 103(a) as being unpatentable over Radatti, U.S. Patent Application Publication 2002/0170052, in view of Delaney, U.S. Patent No. 6,374,289, in further view of Shostack, U.S. Patent No. 6,298,445, in further view of Verisign (Verisign Gets US Approval for 128-bit Key Certificates Export).

**VII ARGUMENTS (37 C.F.R. § 41.37(c)(1)(vii))**

The claims of the groups noted below do not stand or fall together. In the present section, appellant explains why the claims of each group are believed to be separately patentable.

**Issue #1:**

The Examiner has stated that Provisional Application Number 60/282,333 filed 4/9/2001 upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 2-3, 9-10, 13-14 and 16-17.

Appellant respectfully disagrees with this assertion.

**Issue #2:**

The Examiner has rejected Claims 13-14 under 35 U.S.C. 112, second paragraph as being indefinite.

***Group #1: Claims 13 and 14***

Appellant respectfully asserts that such rejections would have been avoided in view of the clarifications made to the above rejected claims in the un-entered Amendment filed August 03, 2005.

**Issue #3:**

The Examiner has rejected Claims 1, 4-7, 15 and 18-25 under 35 U.S.C. 103(a) as being unpatentable over Peng, U.S. Patent No. 6,317,754, in view of Delaney, U.S. Patent No. 6,374,289.

***Group #1: Claims 1, 4, 5, 15, 18, 19 and 22-25***

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on appellant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

With respect to the first element of the *prima facie* case of obviousness and, in particular, the obviousness of combining the aforementioned references, the Examiner argues that it would have been obvious to employ the teachings of Delaney in the synchronization system of Peng by broadcasting the request for each object to a plurality of peers and receiving the requested object from one of the peers. To the contrary, appellant respectfully asserts that it would not have been obvious to combine the teachings of the Delaney and Peng references, especially in view of the vast evidence to the contrary.

Specifically, Peng relates to synchronizing servers, while Delaney relates to distributing data packages among peer clients. To simply glean features from a system for synchronizing servers, such as that of Peng, and combine the same with the *non-analogous art* of data package distribution among peer clients, such as that of Delaney, would simply be improper. Synchronizing servers, as in Peng, allows for a pair of servers to exchange data such that each resultant server contains the same data. On the other hand, distributing data packages among peer clients merely allows for data packages to be requested from peers to other peers where such other peers may respond to the request and only the requested data packages may be downloaded.

"In order to rely on a reference as a basis for rejection of an appellant's invention, the reference must either be in the field of appellant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was



concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) In view of the vastly different types of problems synchronizing servers address as opposed to distributing data packages among peer clients, the Examiner's proposed combination is inappropriate.

In the Advisory Action dated 8/17/2005, the Examiner has argued that both "Peng and Delany belong to the analogous art of data transfer to a device." The Examiner has further argued that simply because Peng and Delaney transfer data to devices in different manners does not classify them as non-analogous art. Appellant respectfully disagrees. In particular, synchronizing servers, as in Peng is not analogous to package distribution among a plurality of peer clients, as in Delaney. Clearly synchronizing servers does not allow for specific requests/broadcasts to be made as does peer distribution. In addition, synchronization requires a complete transfer of data such that the two systems being synchronized contain identical data as a result of the synchronization, whereas peer distribution allows for only a single requested piece of data to be transferred without requiring any additional transfers of data.

More importantly, with respect to the third element of the prima facie case of obviousness, the Examiner has relied on step 6a in Col. 6 of Peng to make a prior art showing of appellant's claimed technique of "verifying the retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein" (see this or similar, but not identical language in each of the foregoing claims). Appellant notes that such excerpt in Peng merely teaches verifying that a received object "has a version identifier or time stamp older than or equal to the version vector of the corresponding object in the first [receiving] server."

However, such version identifier/time stamp is only verified by making sure it is newer than the version already contained at the receiving server, and is not verified to ensure it "contains the version identifier embedded therein," where the version

identifier is contained in a request for a resource by a requesting peer, in the context claimed by appellant.

In the Advisory Action dated 8/17/2005, the Examiner has further argued that Peng clearly discloses “if the received object or update has a version vector or time stamp older than or equal to the version vector of the corresponding object in the first server” and that the version vector is the version vector in the request disclosed in Col. 5, step 1 of Peng. Appellant notes that such excerpt clearly discloses that the version vector of the received object is verified for a second time. Specifically, Peng teaches that first, all objects are identified which exist in a second server, but not in a first server (Col. 5, step 3a). Then, version vectors of such objects are compared to determine if they are newer than version vectors in the first server (Col. 6, step 4). The first server then receives the objects with newer version vectors (Col. 6, step 6) and, after receiving such objects, the first server again compares the version vectors of the received objects with the version vectors of objects already present in the first server such that received objects with older version vectors are thrown away (Col. 6, step 6a).

Clearly, Peng teaches a first receiving server that compares version vectors two times, once before receiving objects and once after receiving the objects. Appellant, on the other hand, claims “verifying the retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein” (emphasis added). Thus, appellant claims verifying a resource by ensuring the retrieved resource has the originally requested version identifier embedded therein, whereas Peng only teaches comparing versions vectors for a second time and taking any newer version, regardless of whether it was an originally requested resource. In this way, Peng does not allow for the receiver of the resource to be able to verify that a specifically requested resource is in fact the same resource received,

Appellant respectfully asserts that at least the first and third element of the *prima facie* case of obviousness have not been met, since it would be *unobvious* to combine the references, as noted above, and the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

*Group #2: Claims 6 and 20*

The Examiner has relied on step 3 in Cols. 5-6 of Peng to make a prior art showing of appellant's claimed technique of "comparing the listing of resources with resources installed at the requesting peer to determine which resources are to be requested over the peer-to-peer network."

Appellant respectfully asserts that such excerpt merely relates to synchronizing two servers, and not "determin[ing] which resources are to be requested over the peer-to-peer network" (emphasis added).

In the Advisory Action dated 8/17/2005, it seems the Examiner has relied on paragraph [0064] and [0098] in Radatti to meet appellant's specific claim language. However, appellant notes that the Examiner did not reject Claim 6 et al. under the Radatti reference. Appellant again emphasizes that the Peng reference does not meet appellant's specific claim language for the reasons noted above.

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

*Group #3: Claims 7 and 21*

The Examiner has relied on Col. 7, lines 13-18 in Delaney to make a prior art showing of appellant's claimed technique of "requesting each resource to be requested in a separate transaction such that each resource to be requested may be retrieved from a same or different responding peer."

Appellant notes however, that the excerpt relied on by the Examiner relates to a single data package. Appellant respectfully asserts that in fact, Delaney *teaches away* from appellant's claim language since Delaney discloses that "[o]ptionally and preferably, if more than one data package is desired, a list of requested data

packages is included in the request message rather than a single MD5 digest, in order to reduce the total number of request messages on the network" (see Col. 7, lines 22-25).

In the Advisory Action dated 8/17/2005, the Examiner has argued that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. However, appellant respectfully asserts that the excerpt from Delaney relied on by the Examiner simply does not meet appellant's specific claim language. In particular, appellant claims "requesting each resource to be requested in a separate transaction such that each resource to be requested may be retrieved from a same or different responding peer" (emphasis added). The excerpt in Delaney relied on by the Examiner simply relates to when a single data package is desired. However, Delaney further teaches that "if more than one data package is desired, a list of requested data packages is included in the request message rather than a single MD5 digest, in order to reduce the total number of request messages on the network" (see Col. 7, lines 22-25-emphasis added). Clearly, creating a list of requested data packages when more than one data package is desired, as taught by Delaney, does not meet appellant's specific claim language.

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Issue #4:

The Examiner has rejected Claims 2 and 16 under 35 U.S.C. 103(a) as being unpatentable over Peng, U.S. Patent No. 6,317,754, in view of Delaney, U.S. Patent No. 6,374,289, in further view of Shostack, U.S. Patent No. 6,298,445.

*Group #1: Claims 2 and 16*

Appellant respectfully asserts that such claims are not met by the prior art for the reasons argued above with respect to Issue #3, Group #1.

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Issue #5:

The Examiner has rejected Claims 3 and 17 under 35 U.S.C. 103(a) as being unpatentable over Peng, U.S. Patent No. 6,317,754, in view of Delaney, U.S. Patent No. 6,374,289, in further view of Shostack, U.S. Patent No. 6,298,445, in further view of Verisign (Verisign Gets US Approval for 128-bit Key Certificates Export).

*Group #1: Claims 3 and 17*

Appellant respectfully asserts that such claims are not met by the prior art for the reasons argued above with respect to Issue #3, Group #1.

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Issue #6:

The Examiner has rejected Claims 8 and 11 under 35 U.S.C. 103(a) as being unpatentable over Radatti, U.S. Patent Application Publication 2002/0170052, in view of Delaney, U.S. Patent No. 6,374,289.

*Group #1: Claims 8 and 11*

The Examiner has relied on paragraphs [0093-0094] in Radatti to make a prior art showing of appellant's claimed technique of "verifying each retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein."

Appellant respectfully asserts that such excerpts in Radatti only teach determining if a “server target file hash does not match the client entry in the update\_index file.” Appellant notes that Radatti, in fact, only teaches that the “update software obtains the update\_hash file from the server, which [is] compared to the client update\_hash file...[and if] another version of the software product is available, the hash is different, and the update program [proceeds] to download update\_index from the server” (see paragraph [0083]). Thus, update\_index is only downloaded if it is verified that the hash is different, and each retrieved resource is not verified in Radatti “by ensuring the retrieved resource contains the version identifier embedded therein,” as claimed by appellant.

In the Advisory Action dated 8/17/2005, the Examiner has stated that paragraph [0003] in Radatti teaches that “version information in the received resource is hashed and compared with a hash of the version information of the server copy of the resource.” Appellant respectfully disagrees. First, such excerpt from Radatti only teaches that when hash information is compared between a client and a server, such comparison can also be used to ensure file integrity on the client. However, nowhere in Radatti are retrieved resources verified, let alone in the specific context claimed by appellant. Second, file integrity is determined during comparison of hashes, and not for retrieved resources. Third, only the file integrity is determined in Radatti, and not whether a retrieved resource contains a requested version identifier embedded therein, in the manner claimed by appellant. Thus, clearly such excerpt does not meet appellant’s specific claim language.

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Issue #7:

The Examiner has rejected Claims 9 and 13 under 35 U.S.C. 103(a) as being unpatentable over Radatti, U.S. Patent Application Publication 2002/0170052, in view

of Delaney, U.S. Patent No. 6,374,289, in further view of Shostack, U.S. Patent No. 6,298,445.

*Group #1: Claims 9 and 13*

Appellant respectfully asserts that such claims are not met by the prior art for the reasons argued above with respect to Issue #6, Group #1.

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Issue #8:

The Examiner has rejected Claims 10 and 14 under 35 U.S.C. 103(a) as being unpatentable over Radatti, U.S. Patent Application Publication 2002/0170052, in view of Delaney, U.S. Patent No. 6,374,289, in further view of Shostack, U.S. Patent No. 6,298,445, in further view of Verisign (Verisign Gets US Approval for 128-bit Key Certificates Export).

*Group #1: Claims 10 and 14*

Appellant respectfully asserts that such claims are not met by the prior art for the reasons argued above with respect to Issue #6, Group #1.

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

In view of the remarks set forth hereinabove, all of the independent claims are deemed allowable, along with any claims depending therefrom.

**VIII APPENDIX OF CLAIMS (37 C.F.R. § 41.37(c)(1)(viii))**

The text of the claims involved in the appeal (along with associated status information) is set forth below:

1. (Previously Presented) A method for securely sharing resources over a peer-to-peer network, comprising:  
  
    broadcasting a single request to a plurality of peers by a requesting peer for a resource over the peer-to-peer network wherein the request contains an identification of the resource and the resource identification contains a resource version identifier;  
  
    receiving a response from a responding peer on the peer-to-peer network indicating that the responding peer has the requested resource;  
  
    retrieving the requested resource from the responding peer; and  
  
    verifying the retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein.
2. (Original) The method for securely sharing resources over a peer-to-peer network of claim 1, wherein said verifying the retrieved resource further comprises verifying a digital signature of the retrieved resource to ensure integrity of the retrieved resource.
3. (Original) The method for securely sharing resources over a peer-to-peer network of claim 2, wherein said digital signature is a 1024-bit VeriSign digital certificate.



4. (Original) The method for securely sharing resources over a peer-to-peer network of claim 1, further comprising installing said resource.

5. (Original) The method for securely sharing resources over a peer-to-peer network of claim 1, further comprising retrieving a catalog containing a listing of resources.

6. (Original) The method for securely sharing resources over a peer-to-peer network of claim 5, further comprising comparing the listing of resources with resources installed at the requesting peer to determine which resources are to be requested over the peer-to-peer network.

7. (Original) The method for securely sharing resources over a peer-to-peer network of claim 6, further comprising requesting each resource to be requested in a separate transaction such that each resource to be requested may be retrieved from a same or different responding peer.

8. (Previously Presented) A product updating service for automatic and secure updating of a product installed at a node of a peer-to-peer network, comprising:

automatically downloading a catalog containing a current listing of resources for the product at a predetermined time, each resource being identified by a resource version identifier;

comparing the listing of resources in the catalog with resources installed at the node to determine which resources are to be requested over the peer-to-peer network;

requesting each resource to be requested in a separate transaction over the peer-to-peer network, the request being made via a single broadcasted request to a plurality of peers;

retrieving each resource to be requested in the peer-to-peer network and the Internet; and

verifying each retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein.

9. (Original) The product updating service for automatic and secure updating of a product installed at a node of a peer-to-peer network of claim 8, wherein said verifying each retrieved resource further comprises verifying a digital signature of each retrieved resource to ensure integrity of the retrieved resource.

10. (Original) The product updating service for automatic and secure updating of a product installed at a node of a peer-to-peer network of claim 9, wherein said digital signature is a 1024-bit VeriSign digital certificate.

11. (Original) The product updating service for automatic and secure updating of a product installed at a node of a peer-to-peer network of claim 8, further comprising installing each of the retrieved resources.

12. (Cancelled)

13. (Previously Presented) The method for providing secure updating of the software product of claim 8, wherein each resource is digitally signed with a digital signature.

14. (Original) The method for providing secure updating of the software product of claim 13, wherein said digital signature is a 1024-bit VeriSign digital certificate.

15. (Previously Presented) A computer program product for securely sharing resources over a peer-to-peer network, comprising:

computer code that broadcasts a single request to a plurality of peers by a requesting peer for a resource over the peer-to-peer network wherein the request contains an identification of the resource and the resource identification contains a resource version identifier;

computer code that receives a response from a responding peer on the peer-to-peer network indicating that the responding peer has the requested resource;

computer code that retrieves the requested resource from the responding peer;

computer code that verifies the retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein; and

a computer readable medium that stores said computer codes.

16. (Previously Presented) The computer program product for securely sharing resources over a peer-to-peer network of claim 15, wherein said computer

code that verifies the retrieved resource further comprises computer code that verifies a digital signature of the retrieved resource to ensure integrity of the retrieved resource.

17. (Previously Presented) The computer program product for securely sharing resources over a peer-to-peer network of claim 16, wherein said digital signature is a 1024-bit VeriSign digital certificate.

18. (Previously Presented) The computer program product for securely sharing resources over a peer-to-peer network of claim 15, further comprising computer code that installs said resource.

19. (Previously Presented) The computer program product for securely sharing resources over a peer-to-peer network of claim 15, further comprising computer code that retrieves a catalog containing a listing of resources.

20. (Previously Presented) The computer program product for securely sharing resources over a peer-to-peer network of claim 19, further comprising computer code that compares the listing of resources with resources installed at the requesting peer to determine which resources are to be requested over the peer-to-peer network.

21. (Previously Presented) The computer program product for securely sharing resources over a peer-to-peer network of claim 20, further comprising computer code that requests each resource to be requested in a separate transaction

such that each resource to be requested may be retrieved from a same or different responding peer.

22. (Previously Presented) The method for securely sharing resources over a peer-to-peer network of claim 1, wherein the responding peer scans a list of local aliased copies to determine if the responding peer has a local version of the requested resource.

23. (Previously Presented) The method for securely sharing resources over a peer-to-peer network of claim 1, wherein the responding peer waits a predetermined period of time before responding that the responding resource has the requested resource.

24. (Previously Presented) The method for securely sharing resources over a peer-to-peer network of claim 23, wherein the predetermined period of time is randomly generated between 0 and 2000 milliseconds.

25. (Previously Presented) The method for securely sharing resources over a peer-to-peer network of claim 1, wherein, after receiving the response, the requesting peer broadcasts a message to the plurality of peers that the requested resource has been found.

**IX APPENDIX LISTING ANY EVIDENCE RELIED ON BY THE APPELLANT  
IN THE APPEAL (37 C.F.R. § 41.37(c)(1)(ix))**

There is no such evidence.

**X RELATED PROCEEDING APPENDIX (37 C.F.R. § 41.37(c)(1)(x))**

There is no such related proceeding.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. For payment of any additional fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. NAI1P275\_01.014.01).

Respectfully submitted,

By:  \_\_\_\_\_

Kevin J. Zilka

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,543	08/02/2001	Charles L. Vigue	NA11P275/01.014.01	6834
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DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	Application No. 09/921,543	Applicant(s) VIGUE ET AL.	
	Examiner Matthew T. Henning	Art Unit 2131	

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

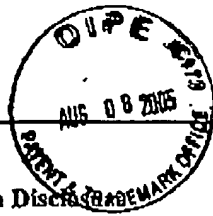
The Appeal Brief filed on 10/13/2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Re. 1: There is no section 'X' "Related Proceedings Appendix"  
Re. 2: The brief failed to show that claim 12 has been cancelled from the claims.  
Re. 4: The brief does not contain a concise explanation of independent claim 15.  
Re. 7: The claim listing provided appears to correspond to the claims submitted on 3/30/2005, however, the last entered claim listing was submitted on 8/3/2005.

*Cel*  
*Primary Examiner*  
*AV 2131*  
*11/8/06*



Form 1449 (Modified)	Atty. Docket No. NAI1P275/01.014.01	Application No.: 09/921,543
Information Disclosure Statement By Applicant	Applicant: Vigue et al.	Group Art Unit: 2131
(Use Several Sheets if Necessary)	Filing Date: 08/02/2001	

## U.S. Patent Documents

Examiner Initial	No.	Patent No.	Date	Patentee	Class	Sub-class	Filing Date
	A						
	B						
	C						
	D						
	E						
	F						
	G						
	H						
	I						
	J						
	K						

## Foreign Patent or Published Foreign Patent Application

Examiner Initial	No.	Document No.	Publication Date	Country or Patent Office	Class	Sub-class	Translation	
							Yes	No
	L							
	M							
	N							
	O							
	P							

## Other Documents

Examiner Initial	No.	Author, Title, Date, Place (e.g. Journal) of Publication
MT H	R	Office Action mailed May 3, 2005 in application number 09/921,521, filed 08/02/2001
	S	
	T	
Examiner	Date Considered	
	1/17/06	

Examiner: Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Pg. 1 of 1